

OFFICE COPY	
Prepared By	_____
Approved By	_____

An act to amend Section 11466.23 of the Welfare and Institutions Code, relating to public social services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

DRAFT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11466.23 of the Welfare and Institutions Code is amended to read:

11466.23. (a) It is the intent of the Legislature to comply with the federal requirements of the Improper Payments Act of 2002 with respect to the remittance of the federal share of foster care overpayments.

(b) For the purposes of this section, ~~a federal~~ “federal foster care or adoption assistance overpayment is defined as overpayment” means any amount of aid paid to which a foster care provider or adoption assistance recipient was not entitled, including any overpayment identified by a foster care provider as described in Section 11400, or federal Adoption Assistance Program recipient as described in Chapter 2.1 (commencing with Section 16115) of Part 4, and on and after the date that the director executes a declaration pursuant to Section 11217, any federal Kin-GAP aid paid to which a related guardian was not entitled, including any overpayment identified by a federal Kin-GAP recipient as described in Article 4.7 (commencing with Section 11385).

(c) Counties shall be required to remit the appropriate amount of federal funds upon identification of the overpayment, following the completion of due process.

(1) Counties shall not be required to repay the overpayment when any of the following occurs:

(A) The amount is legally uncollectible, including any amount legally uncollectible pursuant to Section 11466.24.

(B) The cost of collection exceeds the overpayment.

(C) The foster family agency or group home is no longer in business or licensed by the department.

~~(2) Remittance of overpayments of federal AFDC-FC funds, federal Kin-GAP, and federal AAP funds not excluded by paragraph (1) shall be shared by the state and the counties based on a 40-percent state, 60-percent county sharing ratio. Upon actual collection of any overpayments from providers or recipients, the county shall ensure that the total amount reimbursed to the state reflects the federal and state share of the overpayment costs, as specified. All overpayments of federal AFDC-FC funds, federal Kin-GAP, and federal AAP funds included in paragraph (1) shall be repaid completely with state funds.~~

(2) Remittance of overpayments of federal AFDC-FC, federal Kin-GAP, and federal AAP funds not excluded by paragraph (1) shall be shared by the state and the counties based on the following sharing ratios:

(A) For federal AFDC-FC funds, the sharing ratios described in subdivision (c) of Section 15200.

(B) For federal Kin-GAP funds, the sharing ratios described in Section 10101.2.

(C) For federal AAP funds, the sharing ratios described in subdivision (e) of Section 15200.

(3) Upon actual collection of any overpayments from providers or recipients, the county shall ensure that the total amount reimbursed to the state reflects the federal and state share of the overpayment costs, as specified. All overpayments of federal AFDC-FC, federal Kin-GAP, and federal AAP funds included in paragraph (1) shall be repaid completely with state funds.

~~(3)~~

~~(4)~~ Nothing in this section shall inhibit existing county authority to collect overpayments.

~~(4)~~

~~(5)~~ Nothing in this section shall inhibit existing county responsibility to remit voluntary overpayments upon collection.

(d) (1) The department shall adopt regulations to implement this section by December 31, 2008. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department, in consultation and coordination with the County Welfare Directors Association, may adopt emergency regulations to implement this section.

(2) The adoption of emergency regulations pursuant to subdivision (a) shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time final regulations shall be adopted.

(e) The department may only require counties to remit payment of the federal share for overpayments upon identification that occur on or after the effective date of regulations adopted pursuant to this section.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make changes necessary to implement the Budget Act of 2011, it is necessary for this act to take effect immediately.

- 0 -

DRAFT

OFFICE COPY

Prepared By _____

Approved By _____

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Foster care, Kin-GAP, and adoption assistance: federal funding: overpayments.

Existing law declares the intent of the Legislature to comply with specified federal law relating to the overpayment of federal foster care and adoption assistance payments, under the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, Kinship Guardian Assistance Payment (Kin-GAP) program and Adoption Assistance Program (AAP). Existing law requires these funds to be repaid by the state and counties under designated circumstances. Existing law excludes certain amounts from this repayment requirement, and with respect to those amounts not excluded, requires repayment to be based on a 40% state, 60% county sharing ratio.

This bill would delete the existing sharing ratio, and instead would apply specified separate sharing ratios for repayment of federal AFDC-FC, Kin-GAP, and AAP funds, respectively.

Because moneys from the General Fund are continuously appropriated to pay the state's share of AFDC-FC, Kin-GAP, and AAP, and because this bill would result in an increase in the state's level of participation in these programs in certain cases, the bill would make an appropriation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.